

May 31, 2011

GLORIA L. FRANKLIN, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

PAUL DEN BESTE,

No. 10-13558

Debtor(s).

PAUL DEN BESTE,

Plaintiff(s),

v.

A.P. No. 11-1109

EDITH MAZZAFERRI,

Defendant(s).

Memorandum on Motion for Summary Judgment

Plaintiff has filed a crude motion for summary judgment, supported only by a declaration reciting that the allegations in the complaint are true. There is no real opposition to the motion, but it still cannot be granted unless it demonstrates that plaintiff is entitled to judgment as a matter of law.

Robinson v. Wix Filtration Corp., LLC, 599 F.3d 403, 409n8 (4th Cir. 2010).

In order for a plaintiff to be entitled to a judgment pursuant to § 362(k) of the Bankruptcy Code, the violation of the automatic stay must be shown to be willful. This requires evidence that the

1 defendant knew about the automatic stay. *In re Ozenne*, 337 B.R. 214, 220 (9th Cir. BAP 2006).

2 Plaintiff's motion does not establish a willful violation of the automatic stay. Accordingly, it cannot
3 be granted. Either party may submit an appropriate form of order.

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5 Dated: May 31, 2011

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Alan Jaroslovsky
U.S. Bankruptcy Judge

1 **CERTIFICATE OF MAILING**

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3 The undersigned deputy clerk of the United States Bankruptcy Court for the Northern District

4 of California hereby certifies that a copy of the attached document was mailed to all parties listed

5 below as required by the Bankruptcy Code and Rules of Bankruptcy Procedure.

6

7 Dated: May 31, 2011

Linda Jerge
Linda Jerge, Deputy Court Clerk

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10 Paul R. DenBeste
30357 River Rd.
11 Cloverdale, CA 95425

12 Edith Mazzaferri
599 Oregon St.
13 Sonoma, CA 95426

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